

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:

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)
) Application of Section 73.606(b),
) Table of Allotments, Television
) Broadcast Stations and Section
) 73.622(b), Table of Allotments
) Digital Television Broadcast
) Stations (Buffalo, New York)
)

MM Docket No. 98-175
RM-9364

To: The Commission

**MOTION TO STRIKE "COMMENTS OF
AMICUS CIPB IN SUPPORT OF
CNM PETITION FOR EMERGENCY RELIEF"**

Western New York Public Broadcasting Association ("Association"), licensee of noncommercial educational television Stations WNED-TV, Channel 17, and WNEQ-TV, Channel 23, Buffalo, New York, Buffalo, New York, pursuant to Section 1.41 and 1.45(c) of the rules, requests the Commission to strike a self-styled pleading, "Comments of Amicus CIPB in Support of CNM Petition for Emergency Relief", filed on December 7, 1999 in this proceeding by Citizens for Independent Public Broadcasting "CIPB"). In support thereof, the following is respectfully shown:

1. CIPB seeks to file comments as amicus curiae in support of a self-styled "Petition for Emergency Relief" filed on November 30, 1999 by the Coalition for Noncommercial Media ("CNM"). Simultaneously herewith, the Association is filing a Motion to Strike CNM's "Petition" as unauthorized, untimely and unwarranted. That Motion is hereby specifically incorporated by reference.

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2. In view of the fact that CIPB's proffered comments are intended to be in support of CNM's "Petition", those comments should properly be rejected without consideration at the same time and for the same reasons that CNM's frivolous "Petition" is rejected.

3. It should be noted also that CIPB's pleading, which is offered well after the pleading stages in CNM's Application for Review have closed, fails to explain why it could not have participated long ago. Further, CIPB does not in any way articulate the manner in which it could possibly be of any assistance to the Commission in the context of this particular Buffalo proceeding. CIPB has no demonstrable tie to the Buffalo area and no clear knowledge of the public television needs and interests of viewers in the Buffalo region. CIPB, like CNM itself, is a national entity unrelated to Buffalo. The Commission properly rejected consideration of CNM's proposals to reserve all unreserved channels across the country being used for noncommercial operations, which were not "appropriately filed" in this Buffalo proceeding (Report and Order, fn. 2). Likewise, the Commission should properly reject CIPB's proffer of assistance as a "friend of the Court" where it has no specific information to impart or expertise to offer regarding the particular reserved channel exchange proposal which is the subject matter of this proceeding.

WHEREFORE, for all of the foregoing reasons and for the reasons set forth in the Association's companion Motion to Strike CNM's "Petition", the Commission should forthwith reject without consideration CIPB's pleading.

Respectfully submitted,

WESTERN NEW YORK PUBLIC
BROADCASTING ASSOCIATION

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December 14, 1999

CERTIFICATE OF SERVICE

I, Nancy M. Cassady, Secretary in the law offices of Schwartz, Woods & Miller, do hereby certify that I have on this 14th day of December, 1999, sent by First Class United States mail, postage prepaid, copies of the foregoing **MOTION TO STRIKE "COMMENTS OF AMICUS CIPB IN SUPPORT OF CNM PETITION FOR EMERGENCY RELIEF"** to

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